

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Crescenzi et al.

Serial No.: 10/540,449

Art Unit:

1624

Docket No.: ITR0046YP

Filed: June 22, 2005

Examiner:

Moore, Susanna

For: TETRAHYDRO-4H-PYRIDO[1,2-a]PYRIMIDINES AND
RELATED COMPOUNDS USEFUL AS HIV
INTEGRASE INHIBITORS

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date appearing below.

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Alexandria, VA 22313-1450

MERCK & CO., INC.

By Jodi R. Hobbs Date 03-12-2008

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)

Sir:

This is a request for reconsideration of the patent term adjustment (PTA) indicated in the Notice of Allowance mailed January 23, 2008. This application is being submitted with the payment of the issue fee.

The Commissioner is authorized to charge the fee set forth in § 1.18(e) to Deposit Account No. 13-2755.

According to 37 CFR 1.702(a)(1), the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to mail at least one of a notification under 35 U.S.C. 132 or a notice of allowance under 35 U.S.C. 151 not later than fourteen months after the date on which the application fulfilled the requirements of 35 U.S.C. 371 in an international application. The requirements under section 371 for this international application were fulfilled on June 22, 2005. A first office action was mailed on March 16, 2007, which constitutes 206 days of Patent Office delay under 37 CFR 1.703(a); i.e., the number of days from August 22, 2006 (14 months from filing) to March 16, 2007.

There were no circumstances constituting a failure of Applicants to engage in reasonable efforts to conclude processing or examination of the application as set forth in 37 CFR 1.704. Accordingly the correct PTA as of today is PTO Delay – Applicant Delay = 206 – 0 = 206 days.

The PTA determination of the Patent Office (copy enclosed) lists 206 days of Patent Office delay but incorrectly also lists 29 days of Applicant delay. Accordingly, the Patent Office PTA determination as of today is $\text{PTO Delay} - \text{Applicant Delay} = 206 - 29 = 177$ days. The determination of 29 days of Applicant delay is incorrect. According to the transaction history on Public PAIR (copy enclosed) an office action was mailed to Applicants on July 3, 2007. Applicants did not receive this mailing. The transaction history shows that a Notice of Restarted Response Period was mailed on August 3, 2007. Applicants received this mailing which was the office action. Applicants timely filed a complete response to this office action on November 2, 2007.

The Patent Office PTA determination of 29 days of Applicant delay is based upon the July 3, 2007 mailing of the office action which was not received by Applicants and which was superseded by the office action mailed August 3, 2007. The Image File Wrapper on Public PAIR (copy enclosed) shows that the July 3rd mailing of the office action was returned to the Patent Office as undelivered on July 11, 2007. There was no error in the correspondence address (copy of cover pages of the July 3rd and August 3rd mailings of the office action enclosed), so it is not clear why the action was returned by the Post Office as undeliverable. In any event, there was no delay due to Applicants.

It is further noted that the patent that issues from the subject application will not be subject to a terminal disclaimer.

Accordingly, it is requested that the PTA determination for this application as of today be changed to 206 days.

Respectfully submitted,
By: Kenneth R. Walton
Kenneth R. Walton, Reg. No. 32,951
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Tel.: (732) 594-3462

Date: March 12, 2008



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SUBSTITUTED PYRIMIDO[1,2-A]AZEPINES USEFUL AS HIV 1INTEGRASE INHIBITORS

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Patent Term Adjustment

Filing or 371(c) Date:	06-22-2005	USPTO Delay (PTO) Delay (days):	206
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	29
Post-Issue Petitions (days):	+0	Total Patent Term Adjustment (days):	177
USPTO Adjustment (days):	+0	Explanation Of Calculations	

Patent Term Adjustment History

Date	Contents Description	PTO(Days)	APPL(Days)
01-23-2008	Mail Notice of Allowance		
01-23-2008	Document Verification		
01-23-2008	Notice of Allowance Data Verification Completed		
01-23-2008	Case Docketed to Examiner in GAU		
01-22-2008	Examiner's Amendment Communication		
11-17-2007	Date Forwarded to Examiner		
11-01-2007	Response after Non-Final Action		29
08-03-2007	Mail Notice of Restarted Response Period		↑
08-01-2007	Letter Restarting Period for Response (i.e. Letter re: References)		↑
07-03-2007	Mail Non-Final Rejection		↑
06-25-2007	Non-Final Rejection		
04-12-2007	Information Disclosure Statement considered		
04-24-2006	Information Disclosure Statement considered		
04-12-2007	Reference capture on IDS		
04-12-2007	Information Disclosure Statement (IDS) Filed		
04-12-2007	Information Disclosure Statement (IDS) Filed		
04-26-2007	Date Forwarded to Examiner		
04-12-2007	Response to Election / Restriction Filed		
03-16-2007	Mail Restriction Requirement	206	
03-14-2007	Requirement for Restriction / Election	↑	
06-19-2006	Case Docketed to Examiner in GAU	↑	
04-24-2006	Reference capture on IDS	↑	
04-24-2006	Information Disclosure Statement (IDS) Filed	↑	
04-24-2006	Information Disclosure Statement (IDS) Filed	↑	
06-22-2005	Preliminary Amendment	↑	

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Date	Transaction Description
01-23-2008	Mail Examiner's Amendment
01-23-2008	Mail Notice of Allowance
01-23-2008	Document Verification
01-23-2008	Notice of Allowance Data Verification Completed
01-23-2008	Case Docketed to Examiner in GAU
01-22-2008	Examiner's Amendment Communication
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04-12-2007	Information Disclosure Statement (IDS) Filed
04-26-2007	Date Forwarded to Examiner
04-12-2007	Response to Election / Restriction Filed
03-16-2007	Mail Restriction Requirement
03-14-2007	Requirement for Restriction / Election
06-19-2006	Case Docketed to Examiner in GAU
04-24-2006	Reference capture on IDS
04-24-2006	Information Disclosure Statement (IDS) Filed
04-24-2006	Information Disclosure Statement (IDS) Filed
06-22-2005	Preliminary Amendment
02-09-2006	IFW TSS Processing by Tech Center Complete
02-09-2006	Case Docketed to Examiner in GAU
11-21-2005	Cleared by OIPE CSR
11-21-2005	Cleared by OIPE CSR
06-27-2005	371 Completion Date
10-25-2005	Application Dispatched from OIPE
10-25-2005	Notice of DO/EO Acceptance Mailed
06-22-2005	Initial Exam Team nn



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Available Documents

Mail Room Date	Document Description	Page Count	Select All	Star
01-23-2008	Notice of Allowance and Fees Due (PTOL-85)	4		
01-23-2008	Notice of Allowance and Fees Due (PTOL-85)	2		
01-23-2008	Search information including classification, databases and other search related notes	1		
01-23-2008	Issue Information including classification, examiner, name, claim, renumbering, etc.	1		
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01-23-2008	Examiner's search strategy and results	13		
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11-01-2007	Fee Worksheet (PTO-06)	1		
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08-03-2007	Index of Claims	1		
07-11-2007	Mail returned to USPTO as undelivered	14		
07-03-2007	Non-Final Rejection	9		
07-03-2007	List of References cited by applicant and considered by examiner	4		
07-03-2007	Search information including classification, databases and other search related notes	1		
07-03-2007	Index of Claims	1		



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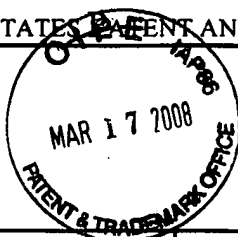
APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,449	06/22/2005	Benedetta Crescenzi	ITR0046YP	1421
210 7590 07/03/2007 MERCK AND CO., INC P O BOX 2000 RAHWAY, NJ 07065-0907				
			EXAMINER MOORE, SUSANNA	
			ART UNIT 1624	PAPER NUMBER
			MAIL DATE 07/03/2007	DELIVERY MODE PAPER

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10/540,449

06/22/2005

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ITR0046YP

1421

210 7590 08/03/2007
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EXAMINER

MOORE, SUSANNA

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